

AMENDED IN ASSEMBLY SEPTEMBER 12, 2013

AMENDED IN ASSEMBLY MARCH 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 569**

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**Introduced by Assembly Member Chau**

February 20, 2013

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~~An act to amend Sections 53890, 53891, and 53892 of, and to repeal Sections 12463.3 and 53895.5 of, the Government Code, and to repeal Sections 33080, 33080.1, 33080.2, 33080.3, 33080.4, 33080.5, 33080.6, and 33080.7 of the Health and Safety Code, relating to redevelopment. An act to amend Sections 11003.4 and 11013.1 of, and to add Section 11013.6 to, the Business and Professions Code, and to amend Section 5100 of the Civil Code, relating to land use.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 569, as amended, Chau. ~~Redevelopment: reports.~~ *Real property: divided lands.*

*(1) Existing law exempts a limited-equity housing cooperative or a workforce housing cooperative trust from provisions of existing law governing subdivided land transactions that are applicable to stock cooperatives if the limited-equity housing cooperative or workforce housing cooperative trust complies with specified conditions.*

*This bill would revise the conditions for the exemption to, among other things, require that each party that executes a regulatory agreement with the cooperative satisfy itself that the rights of the cooperative members are provided adequate protection, as specified. By expanding the applicability of a crime, this bill would impose a state-mandated local program.*

(2) Existing law prohibits the sale or lease of lots or parcels within a subdivision that is subject to a blanket encumbrance unless the encumbrance includes a specified release clause or certain conditions are met.

This bill would authorize the sale or lease of an individual interest in a defined stock cooperative or limited housing cooperative that is subject to a blanket encumbrance if specified conditions are met.

(3) The Davis-Stirling Common Interest Development Act establishes procedures for elections.

This bill would exempt a stock cooperative with bylaws that provide that all members and shareholders automatically become directors of the homeowners' association from the procedures applicable to the election of directors of the homeowners' association.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the Controller to compile and publish annually reports of the financial transactions of each community redevelopment agency, as provided.~~

~~This bill would eliminate that requirement.~~

~~Existing law requires the officer of each local agency, who has charge of the financial records of the agency, to furnish to the Controller a report of all the financial transactions of the local agency during the next preceding fiscal year within 90 days of the close of each fiscal year, as specified. Existing law defines local agency, for purposes of these financial reports, to mean any city, county, district, and specified community redevelopment agencies.~~

~~This bill would exclude community redevelopment agencies from the definition of local agency, thereby eliminating the requirement that a community redevelopment agency furnish the Controller with the financial report. This bill would make related, conforming changes.~~

~~Existing law requires each redevelopment agency to submit the final report of any audit undertaken by any other local, state, or federal government entity to its legislative body and to additionally present an annual report to the legislative body containing specified information. Existing law requires the Department of Housing and Community~~

~~Development to compile and publish reports of the activities of redevelopment agencies, as provided.~~

~~This bill would repeal those provisions, and would repeal related provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 11003.4 of the Business and Professions  
2     Code is amended to read:

3     11003.4. (a) A “limited-equity housing cooperative” or a  
4     “workforce housing cooperative trust” is a corporation that meets  
5     the criteria of Section 11003.2 and that also meets the criteria of  
6     Sections 817 and 817.1 of the Civil Code, as applicable. Except  
7     as provided in subdivision (b), a limited-equity housing or  
8     workforce housing cooperative trust shall be subject to all the  
9     requirements of this chapter pertaining to stock cooperatives.

10    (b) A limited-equity housing cooperative or a workforce housing  
11    cooperative trust shall be exempt from the requirements of this  
12    chapter if the limited-equity housing cooperative or workforce  
13    housing cooperative trust complies with all the following  
14    conditions:

15    (1) The United States Department of Housing and Urban  
16    Development, the United States Department of Agriculture, the  
17    National Consumers Cooperative Bank, the California Housing  
18    Finance Agency, the Public Employees’ Retirement System  
19    (PERS), the State Teachers’ Retirement System (STRS), the  
20    Department of Housing and Community Development, ~~or the~~  
21    Federal Home Loan Bank System or any of its member institutions,  
22    ~~alone a state or in any combination with each other, federally~~  
23    ~~chartered credit union, a state or with federally certified community~~  
24    ~~development financial institution, or the city, county, school~~  
25    ~~district, or redevelopment agency in which the cooperative is~~  
26    ~~located, alone or in any combination with each other, directly~~  
27    finances or subsidizes at least 50 percent of the total construction  
28    or development cost or one hundred thousand dollars (\$100,000),  
29    whichever is less; or the real property to be occupied by the  
30    cooperative was sold or leased by the ~~Department of~~  
31    ~~Transportation, Transportation Agency, other state agency, a city,~~

1 a county, or a school district for the development of the cooperative  
2 and has a regulatory agreement approved by the Department of  
3 Housing and Community Development for the term of the  
4 permanent financing, notwithstanding the source of the permanent  
5 subsidy or financing.

6 (2) No more than 20 percent of the total development cost of a  
7 limited-equity mobilehome park, and no more than 10 percent of  
8 the total development cost of other limited-equity housing  
9 cooperatives, is provided by purchasers of membership shares.

10 (3) A regulatory agreement that covers the cooperative for a  
11 term of at least as long as the duration of the permanent financing  
12 or subsidy, notwithstanding the source of the permanent subsidy  
13 or ~~financing~~ *financing*, has been duly executed between the  
14 recipient of the financing and either (A) one of the federal or state  
15 agencies specified in paragraph (1) or (B) a local public agency  
16 that is providing financing for the project under a regulatory  
17 agreement meeting standards of the Department of Housing and  
18 Community Development. The regulatory agreement shall make  
19 provision for at least all of the following:

20 (A) Assurances for completion of the common areas and  
21 facilities to be owned or leased by the limited-equity housing  
22 cooperative, unless a construction agreement between the same  
23 parties contains written assurances for completion.

24 (B) Governing instruments for the organization and operation  
25 of the housing cooperative by the members.

26 (C) The ongoing fiscal management of the project by the  
27 cooperative, including an adequate budget, reserves, and provisions  
28 for maintenance and management.

29 (D) Distribution of a membership information report to any  
30 prospective purchaser of a membership share, prior to purchase  
31 of that share. The membership information report shall contain  
32 full disclosure of the financial obligations and responsibilities of  
33 cooperative membership, the resale of shares, the financing of the  
34 cooperative including any arrangements made with any partners,  
35 membership share accounts, occupancy restrictions, management  
36 arrangements, and any other information pertinent to the benefits,  
37 risks, and obligations of cooperative ownership.

38 (4) ~~The federal, state, or local public agency~~ *Each party* that  
39 executes the regulatory agreement shall satisfy itself that the  
40 bylaws, articles of incorporation, occupancy agreement,

subscription agreement, any lease of the regulated premises, any arrangement with partners, and arrangement for membership share accounts provide adequate protection of the rights of cooperative members.

(5) ~~The federal~~ *Each provider of financing or state agency subsidies* shall receive from the attorney for the recipient of the financing or subsidy a legal opinion that the cooperative meets the requirements of Section 817 of the Civil Code and the exemption provided by this section.

(c) Any limited-equity cooperative, or workforce housing cooperative trust that meets the requirements for exemption pursuant to subdivision (b) may elect to be subject to all provisions of this chapter.

(d) The developer of the cooperative shall notify the ~~Department Bureau of Real Estate~~, on a form provided by the ~~department, bureau~~, that an exemption is claimed under this section. The ~~Department Bureau of Real Estate~~ shall retain this form for at least four years for statistical purposes.

*SEC. 2. Section 11013.1 of the Business and Professions Code is amended to read:*

11013.1. It shall be unlawful, except as provided in Section ~~11013.2~~, 11013.2 or 11013.6, for the owner, subdivider, or agent to sell or lease lots or parcels within a subdivision that is subject to a blanket encumbrance unless there exists in ~~such~~ *the* blanket encumbrance or other supplementary agreement a provision, hereinafter referred to as a release clause, which by its terms shall unconditionally provide that the purchaser or lessee of a lot or parcel can obtain legal title or other interest contracted for, free and clear of ~~such~~ *the* blanket encumbrance, upon compliance with the terms and conditions of the purchase or lease.

*SEC. 3. Section 11013.6 is added to the Business and Professions Code, to read:*

11013.6. Notwithstanding Sections 11013.1 and 11013.2, an individual interest in a stock cooperative, as defined in Section 4190 of the Civil Code, or a limited equity housing cooperative, as defined in Section 817 of the Civil Code, may be sold or leased subject to a blanket encumbrance if all of the following conditions are met:

1     (a) *The notice required pursuant to Section 1133 of the Civil*  
2     *Code is provided to each prospective purchaser and lessee of the*  
3     *interest and is included in every purchase and lease contract.*

4     (b) *The property subject to the sale or lease has obtained a*  
5     *public report from the Bureau of Real Estate that accounts for the*  
6     *blanket encumbrance.*

7     (c) *The governing documents for the association require the*  
8     *association to create within one year of the sale of at least 50*  
9     *percent of the individual interests in the stock cooperative or*  
10    *limited-equity housing cooperative and maintain during the term*  
11    *of the blanket encumbrance a financing reserve amount equal to*  
12    *at least three months of the amount of the debt service payments*  
13    *due on the blanket encumbrance or a lesser amount acceptable to*  
14    *the commissioner.*

15    SEC. 4. *Section 5100 of the Civil Code is amended to read:*

16    5100. (a) *Notwithstanding any other law or provision of the*  
17    *governing documents, elections regarding assessments legally*  
18    *requiring a vote, election and removal of directors, amendments*  
19    *to the governing documents, or the grant of exclusive use of*  
20    *common area pursuant to Section 4600 shall be held by secret*  
21    *ballot in accordance with the procedures set forth in this article.*

22    (b) *This article also governs an election on any topic that is*  
23    *expressly identified in the operating rules as being governed by*  
24    *this article.*

25    (c) *The provisions of this article apply to both incorporated and*  
26    *unincorporated associations, notwithstanding any contrary*  
27    *provision of the governing documents.*

28    (d) *The procedures set forth in this article shall apply to votes*  
29    *cast directly by the membership, but do not apply to votes cast by*  
30    *delegates or other elected representatives.*

31    (e) *In the event of a conflict between this article and the*  
32    *provisions of the Nonprofit Mutual Benefit Corporation Law (Part*  
33    *3 (commencing with Section 7110) of Division 2 of Title 1 of the*  
34    *Corporations Code) relating to elections, the provisions of this*  
35    *article shall prevail.*

36    (f) *Directors shall not be required to be elected pursuant to this*  
37    *article if the governing documents provide that one member from*  
38    *each separate interest is a director.*

39    SEC. 5. *No reimbursement is required by this act pursuant to*  
40    *Section 6 of Article XIII B of the California Constitution because*

1 *the only costs that may be incurred by a local agency or school*  
2 *district will be incurred because this act creates a new crime or*  
3 *infraction, eliminates a crime or infraction, or changes the penalty*  
4 *for a crime or infraction, within the meaning of Section 17556 of*  
5 *the Government Code, or changes the definition of a crime within*  
6 *the meaning of Section 6 of Article XIII B of the California*  
7 *Constitution.*

8 ~~SECTION 1. Section 12463.3 of the Government Code is~~  
9 ~~repealed.~~

10 ~~SEC. 2. Section 53890 of the Government Code is amended~~  
11 ~~to read:~~

12 ~~53890. As used in this article, "local agency" means any city,~~  
13 ~~county, and any district required to furnish financial reports~~  
14 ~~pursuant to Section 12463.1.~~

15 ~~SEC. 3. Section 53891 of the Government Code is amended~~  
16 ~~to read:~~

17 ~~53891. The officer of each local agency who has charge of the~~  
18 ~~financial records shall furnish to the Controller a report of all the~~  
19 ~~financial transactions of the local agency during the next preceding~~  
20 ~~fiscal year. The report shall be furnished within 90 days after the~~  
21 ~~close of each fiscal year and shall be in the form required by the~~  
22 ~~Controller. If the report is filed in electronic format as prescribed~~  
23 ~~by the Controller, the report shall be furnished within 110 days~~  
24 ~~after the close of each fiscal year. However, whenever a local~~  
25 ~~agency files annual financial materials with the Office of Statewide~~  
26 ~~Health Planning and Development or any successor thereto~~  
27 ~~pursuant to Section 128735 of the Health and Safety Code, the~~  
28 ~~audited report shall be furnished within 120 days after the close~~  
29 ~~of each fiscal year.~~

30 ~~The Controller shall prescribe uniform accounting and reporting~~  
31 ~~procedures that shall be applicable to all local agencies except~~  
32 ~~cities, counties, and school districts, and except for local agencies~~  
33 ~~that substantially follow a system of accounting prescribed by the~~  
34 ~~Public Utilities Commission of the State of California or the~~  
35 ~~Federal Energy Regulatory Commission. The procedures shall be~~  
36 ~~adopted under the provisions of Chapter 3.5 (commencing with~~  
37 ~~Section 11340) of Part 1 of Division 3 of Title 2. The Controller~~  
38 ~~shall prescribe the procedures only after consultation with and~~  
39 ~~approval of a local governmental advisory committee established~~  
40 ~~pursuant to Section 12463.1. Approval of the procedures shall be~~

1 by majority vote of the members present at a meeting of the  
2 committee called by the chairperson thereof.

3 SEC. 4. ~~Section 53892 of the Government Code is amended~~  
4 ~~to read:~~

5 53892. The report shall state all of the following:

6 (a) ~~The aggregate amount of taxes levied and assessed against~~  
7 ~~the taxable property in the local agency, which became due and~~  
8 ~~payable during the next preceding fiscal year.~~

9 (b) ~~The aggregate amount of taxes levied and assessed against~~  
10 ~~this property collected by or for the local agency during the fiscal~~  
11 ~~year.~~

12 (c) ~~The aggregate income during the preceding fiscal year, a~~  
13 ~~general statement of the sources of the income, and the amount~~  
14 ~~received from each source.~~

15 (d) ~~The total expenditures made by administrative departments~~  
16 ~~during the preceding fiscal year, a general statement of the purposes~~  
17 ~~of the expenditures, and the amounts expended by each department.~~

18 (e) ~~The assessed valuation of all of the taxable property in the~~  
19 ~~local agency as set forth on the assessment roll of the local agency~~  
20 ~~equalized for the fiscal year, or, if the officers of the county in~~  
21 ~~which the city or district is situated have collected for the city or~~  
22 ~~district the general taxes levied by the city or district for the fiscal~~  
23 ~~year, the assessed valuation of all taxable property in the city or~~  
24 ~~district as set forth on the assessment rolls for the county equalized~~  
25 ~~for the fiscal year.~~

26 (f) ~~The information required by Section 53892.2, as of the end~~  
27 ~~of the fiscal year.~~

28 (g) ~~The approximate population at the close of the fiscal year~~  
29 ~~and the population as shown by the last regular federal census.~~

30 (h) ~~Other information that the Controller requires.~~

31 (i) ~~Any other matters necessary to complete and keep current~~  
32 ~~the statistical information on assessments, revenues and taxation;~~  
33 ~~collected and compiled by any Senate or Assembly committee on~~  
34 ~~revenue and taxation.~~

35 (j) ~~In the case of cities, the information required by Section~~  
36 ~~53892.3.~~

37 SEC. 5. ~~Section 53895.5 of the Government Code is repealed.~~

38 SEC. 6. ~~Section 33080 of the Health and Safety Code is~~  
39 ~~repealed.~~



1 ~~SEC. 7. Section 33080.1 of the Health and Safety Code is~~  
2 ~~repealed.~~  
3 ~~SEC. 8. Section 33080.2 of the Health and Safety Code is~~  
4 ~~repealed.~~  
5 ~~SEC. 9. Section 33080.3 of the Health and Safety Code is~~  
6 ~~repealed.~~  
7 ~~SEC. 10. Section 33080.4 of the Health and Safety Code is~~  
8 ~~repealed.~~  
9 ~~SEC. 11. Section 33080.5 of the Health and Safety Code is~~  
10 ~~repealed.~~  
11 ~~SEC. 12. Section 33080.6 of the Health and Safety Code is~~  
12 ~~repealed.~~  
13 ~~SEC. 13. Section 33080.7 of the Health and Safety Code is~~  
14 ~~repealed.~~

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